

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LAMONT EDMOUND REEVES, JR.,

Defendant-Appellant.

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UNPUBLISHED

October 23, 2014

No. 317060

Oakland Circuit Court

LC No. 2012-241937-FC

Before: FITZGERALD, P.J., and WILDER and OWENS, JJ.

PER CURIAM.

A jury convicted defendant of first-degree criminal sexual conduct, MCL 750.520b(1)(a) (victim under 13 years old), and the trial court sentenced him to a prison term of 17 years and six months to 50 years. Defendant appeals as of right. We affirm.

The victim alleged that defendant, who would periodically stay with the victim's family, committed more than five acts of sexual misconduct against her at her home in South Lyon when it was "hot outside." She said that defendant would pull her into her bedroom when her parents were not home, place her on her bed, pull down her pants, put his penis "all the way" into her butt, and move it back and forth. Testimony established that defendant attended the Job Corps in Grand Rapids beginning in late May 2008 and did not visit the victim's home the following June, July, August, or September. Accordingly, defendant maintained that the alleged sexual abuse could not have happened during the summer of 2008, when it was "hot outside," as the victim contended. Defendant also maintained that the victim had been coached to tell a doctor in December 2011 that defendant had "sexually abused" her, explaining that the victim testified that she did not even know the word "penis" at that time, but later learned it from watching one of her father's DVDs.

After he was convicted, defendant filed a motion for new trial after learning that the jury might have considered extraneous information while deliberating. At a hearing on the motion, the trial court questioned 10 of the 12 jurors regarding what, if any, outside evidence was brought into the courtroom and whether it was shared. The trial court denied the motion for a new trial, finding insufficient evidence that the jury was influenced by the extraneous information. Defendant now alleges error.

A trial court's ruling on a motion for new trial is reviewed for an abuse of discretion. See *People v Miller*, 482 Mich 540, 544; 759 NW2d 850 (2008). An abuse of discretion occurs when a trial court's decision falls outside the principled range of outcomes. *Id.*

In *People v Budzyn*, 456 Mich 77; 566 NW2d 229 (1997), the Court explained:

A defendant tried by jury has a right to a fair and impartial jury. During their deliberations, jurors may only consider the evidence that is presented to them in open court. Where the jury considers extraneous facts not introduced in evidence, this deprives a defendant of his rights of confrontation, cross-examination, and assistance of counsel embodied in the Sixth Amendment.

In order to establish that the extrinsic influence was error requiring reversal, the defendant must initially prove two points. First, the defendant must prove that the jury was exposed to extraneous influences. Second, the defendant must establish that these extraneous influences created a real and substantial possibility that they could have affected the jury's verdict. Generally, in proving this second point, the defendant will demonstrate that the extraneous influence is substantially related to a material aspect of the case and that there is a direct connection between the extrinsic material and the adverse verdict. If the defendant establishes this initial burden, the burden shifts to the people to demonstrate that the error was harmless beyond a reasonable doubt. We examine the error to determine if it is harmless beyond a reasonable doubt because the error is constitutional in nature. The people may do so by proving that either the extraneous influence was duplicative of evidence produced at trial or the evidence of guilt was overwhelming. [*Id.* at 88-90 (citations omitted).]

Here, there is no dispute that the jury was exposed to extraneous information, as one juror admitted that she brought a sheet into the jury room that might have defined the Job Corps. Other jurors reported that a juror looked up the movie from which the victim said she learned the word "penis." However, defendant has failed to show that these extraneous influences had a real and substantial possibility of affecting the jury's verdict.

The movie from which the victim said she learned the word "penis" was not substantially related to a material aspect of the case. Notably, defendant's counsel never argued that the victim's use of the word penis was coached and never contested the victim's assertion that she learned the word from watching the movie. Instead, defendant's counsel relied on the truth of the victim's testimony that she learned the word penis from watching the movie in arguing that she had a limited vocabulary and was coached to tell her doctor that she had been "sexually abused." Moreover, only a couple jurors remembered this extraneous influence, and there is no evidence that any juror stated whether the movie in fact used the word penis, such that it would have bolstered or undermined the victim's testimony.

With respect to the evidence related to the Job Corps, defendant suggests that it may have led the jury to believe that the Job Corps was a diversion program for individuals charged with crimes, but he offers no evidence in support of that speculative assertion. Only one juror remembered the information and no juror could recall the content of the information or whether

it was even discussed. Thus, defendant has failed to show that the information regarding the Job Corps created a substantial possibility of contributing to the jury's verdict, and the trial court did not abuse its discretion in denying defendant's motion for a new trial.

Affirmed.

/s/ E. Thomas Fitzgerald  
/s/ Kurtis T. Wilder  
/s/ Donald S. Owens